those presumptions may be rebutted by the district commission or by any party upon a showing that the circumstances of the application have changed, or upon a review of evidence not previously presented.

Rule 32. Duration and Conditions of Permits

(A) Permit conditions. The board or district commission may attach such conditions to permits as are appropriate to ensure that the development is completed as approved. This may include the posting of a bond or the establishment of an escrow account requiring the board or district commission to certify that permit conditions have been complied with prior to release of the bond or discharge of the escrow account in part or in whole. Permittees, and their successors and assigns shall comply with all terms and conditions stated in land use permits.

All conditions relating to a permit shall be clearly and specifically stated in the permit. Conditions may pertain to improvement of land and to proper operation and maintenance of any facility during the terms of the permit relating to a development or subdivision.

The board or a district commission may, as it finds necessary and appropriate, require a permittee to file affidavits of compliance with respect to specific conditions of a permit at reasonable intervals. Failure to submit such affidavits shall be cause for revocation of the permit by the board.

When construction of a project will be pursued in stages

involving more than one construction season, a commission or the board may require a permittee to file an annual certificate stating what portion of an approved project has been completed to date.

(B) Duration of permits. Permits issued under the Act shall be for land development or subdivision and the resulting land use. All permits shall run with the land. Permits for extraction of mineral resources, solid waste disposal facilities, and logging above the elevation of 2500 feet shall contain specific dates for completion of the project and for expiration of the land use permit. Permits issued for all other developments and subdivisions shall contain dates for completion of the project but shall not contain a date for expiration of the permit. Effective June 30, 1994, permits issued for all other developments and subdivisions shall be for an indefinite term, as long as there is substantial compliance with each condition of the permit. Expiration dates contained in permits (involving developments and subdivisions that are not for extraction of mineral resources, operation of solid waste disposal facilities and logging above the elevation of 2500 feet) are extended for an indefinite term, as long as there is substantial compliance with each condition of the permit. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1) and (2).**

(1) Project completion date. In determining the dates for phased or full completion of construction or subdivision, the board or district commission shall consider the impacts of

project development under the criteria of the Act, and shall give due regard to the economic considerations attending the proposed development or subdivision (such as the type and terms of financing, and the cost of development or subdivision) and the period of time over which the development or subdivision will take place. If a project, or portion of a project, is not completed by the specified date, such project or portion may be reviewed for compliance with 10 V.S.A. § 6086. In any such review, due consideration shall be given to fairness to the parties involved, competing land use demands for available infrastructure, and cumulative impacts on the resources involved. If completion has been delayed by litigation, proceedings to secure other permits, proceedings to secure title through foreclosure, or because of market conditions, the district commission or the board shall provide that the completion dates be extended for a reasonable period of time during which construction can be completed. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6090(b)(1).**

(2) Permit expiration date. When an expiration date is to be issued, the duration of a permit shall be for a specified period designated as a reasonable projection of time during the land will remain suitable for the use as contemplated in the application and shall at a minimum extend through that time period over which the permit holder or successors in interest will be responsible and accountable for compliance with time-specific permit conditions, including proper and timely

completion of the project. During its term, a permit shall run with the land. (Amended, effective January 2, 1996.)

Rule 33 - Recording of Permits

(A) Recorded permits. Permits shall be recorded at the expense of the applicant in the land records of any municipality in which a development or subdivision is to be located unless the board or a district commission determines in specific instances that such action is not warranted. Any official action of the board or a district commission modifying the terms or conditions of a recorded permit shall also be recorded. The State of Vermont shall be shown as grantee and the original permittee and landowner as grantor. A commission or the board may retain a permit after issuance in order to assure payment of recording expenses or payment of fees under Rule 11. (Amended, effective January 2, 1996.)

(B) Unrecorded permits. The recording of permits is intended to assist purchasers and investors in property by providing actual notice of the terms and conditions of existing land use and development permits. The board and district commissions will, to the extent that it is feasible, contact holders of presently unrecorded permits and seek to have them recorded by voluntary agreement. In addition, any unrecorded permit shall be recorded upon issuance of any amendment, including an amendment required to renew an expired permit or transfer an unrecorded permit to a new permit holder.

(C) Permit transfers.

(1) A purchasing landowner will assume the rights and obligations of a recorded permit without the necessity of an amendment transferring the permit. The board or district commission may, however, by explicit permit condition make an exception to this rule upon a finding that the identity of a permit holder is a critical factor in the satisfaction of the terms and conditions of the permit.

(2) No transfer of an unrecorded development permit shall be effective unless authorized by the board or district commission through an amendment to the permit; rights to an unrecorded subdivision permit may be conveyed or transferred, as authorized in the permit, however, persons acquiring such rights are required to comply with the permit.

(3) Notwithstanding the provisions of paragraphs (C)(1) and (2), above, all permits shall run with the land, and shall be enforceable against the permit holder and all successors in interest, whether or not the permit has been recorded in the land records.

Rule 34. Permit Amendments

(A) Amendments required. An amendment shall be required for any material or substantial change in a permitted project, or any administrative change in the terms and conditions of a land use permit. Applications for amendments shall be on forms provided by the board, and shall be filed with the district commission

having jurisdiction over the project. Upon request, the district coordinator will expeditiously review a proposed change and determine whether it would constitute a substantial change to the project, or whether it involves only material or administrative changes that may be subject to simplified review procedures.

Continuing jurisdiction over all development and subdivision permits is vested in the district commissions unless the board, in acting on an appeal, has specifically reserved the right to maintain jurisdiction over a development or subdivision in part or in its entirety.

(B) Substantial changes to a permitted project or permit. If a proposed amendment involves substantial changes to a permitted project or permit, it shall be considered as a new application subject to the application, notice and hearing provisions of §§ 6083, 6084 and 6085 and the related provisions of these Rules.

(C) Material changes to a permitted project or permit. If, in the judgment of the district coordinator, a proposed amendment involves material, but not substantial changes to a permitted project or permit, it shall be subject to the following simplified review procedures:

(1) Applications. Minor amendment applications shall conform to the requirements of Rule 10, sections (A) through (D). The applicant shall file with the appropriate district commission an original and five copies of the application, along with the fee prescribed by Rule 11.

(2) Review procedures. Applications processed under this section shall be subject to the distribution, posting and publication requirements of 10 V.S.A. Section 6084 and sections (E) through (G) of Rule 10. Such applications shall be processed in the same manner as minor applications under Rule 51(B). (Amended, effective January 2, 1996.)

(3) Consent agreements. The applicant may further expedite these procedures by submitting to the district commission a written consent agreement, signed by all persons entitled to receive the Proposed Material Amendment, consenting to approval of the proposed change, either conditionally or without conditions. For this purpose, the consent of the State Interagency Act 250 Review Committee shall signify approval by all state agencies which were not otherwise parties to the underlying permit. If the district commission finds that a consent agreement satisfies the criteria of the Act, it may approve the proposal and issue the amendment without further proceedings.

(4) Effective date. If no hearing is requested or ordered on a material change, the proposed amendment will become effective when all necessary certifications or other permits specified in the Findings of Fact are obtained, and the amendment is recorded in the land records of the municipality.

(D) Administrative amendments to a permit. A district commission may authorize a district coordinator to amend a permit without notice or hearing when an amendment is necessary solely

for record-keeping purposes and raises no likelihood of impacts under the criteria of the Act. Applications processed under this section shall be exempt from the distribution, posting and publication requirements of 10 V.S.A. § 6084 and sections (E) through (G) of Rule 10. In particular, administrative amendments are authorized to transfer a previously unrecorded permit to a new landowner, or to incorporate a revision in a certification of compliance when such revisions do not have any impact on the criteria of the Act. (Amended, effective January 2, 1996.)

Rule 35. Renewal of Permits

(A) Renewal required. For any permit which expires under Rule 32(B) of these rules, renewal shall be required for any extension of the permitted use beyond the expiration date. (Amended, effective January 2, 1996.)

(B) Renewal applications. Applications for permit renewals shall be on forms provided by the board, and shall be filed with the district commission having jurisdiction over the project. The district commission will expeditiously review a proposed renewal and determine whether it would involve significant impacts under the criteria and upon the values sought to be preserved by the Act. Factors taken into consideration will include: whether the project has been constructed, operated, and maintained in conformance with the terms and conditions of the permit; whether the extension also involves other amendments to the project; whether the project involves continuing operations

that are likely to have demonstrable impacts under the criteria of the Act beyond those considered during previous review of the project; and whether the project is one for which a strictly limited term of operation was anticipated in the original permit. (Amended, effective January 2, 1996.)

Rule 37. Certification of Compliance

Any person holding a permit may at any time petition the board or a district commission issuing the permit for a certification of compliance with the terms and conditions that may be imposed by the permit. Under usual circumstances, a person may petition for a certification upon completion of the construction of a development or division of land that completion or division has been accomplished in compliance with the permit.

Thereafter, if the permit establishes terms and conditions regarding operation and/or maintenance of a development or subdivision, the person holding the permit may from time to time petition the board or district commission for certification of compliance.

A certification shall be a matter of public record and shall estop any claim that the construction of a development or division of land or the operation and/or maintenance thereof do not comply with the provisions of the permit unless fraud or misrepresentation is shown. The notice and hearing requirements of the act shall be complied with when a petition for certificate of compliance is filed with the board or a district commission. (Amended, effective February 1, 1988.)

Rule 38. Revocation and Abandonment of Permits

(A) Revocation for violations. A petition for revocation of a permit under 10 V.S.A. § 6090(c) may be made to the board by any person who was party to the application, by any adjoining property owner whose property interests are directly affected by an alleged violation, by a municipal or regional planning commission, or any municipal or state agency having an interest which is affected by the development or subdivision. The petition shall consist of an original and 10 copies of the petition which shall include a statement of reasons why the petitioner believes that grounds for revocation exist, a preliminary list of witnesses and the land use permit to which it applies. The board may also consider permit revocation on its own motion. (Amended, effective January 2, 1996.)

(1) Procedure. The board will treat a petition for revocation as an initial pleading in a contested case, in accordance with the notice and hearing procedures of Rule 40 of these rules. The petition shall be served on all parties to the original permit proceeding. No fee is required. (Amended, effective January 2, 1996.)

(2) Grounds for revocation. The board may after hearing revoke a permit if it finds that: (a) The applicant or representative willfully or with gross negligence submitted inaccurate, erroneous, or materially incomplete information in connection with the permit application, and that accurate and complete information may have caused the district commission or

board to deny the application or to require additional or different conditions on the permit; or (b) the applicant or successor in interest has violated the terms of the permit or any permit condition, the approved terms of the application, or the rules of the board; or (c) the applicant or successor in interest has failed to file an affidavit of compliance with respect to specific conditions of a permit, contrary to a request by the board or district commission.

(3) Opportunity to correct a violation. Unless there is a clear threat of irreparable harm to public health, safety, or general welfare or to the environment by reason of the violation, the board shall give the permit holder reasonable opportunity to correct any violation prior to any order of revocation becoming final. For this purpose, the board shall clearly state in writing the nature of the violation and the steps necessary for its correction or elimination. These terms may include conditions, including the posting of a bond or payments to an escrow account, to assure compliance with the board's order. In the case where a permit holder is responsible for repeated violations, the board may revoke a permit without offering an opportunity to correct a violation.

(4) Judicial action not precluded. Nothing in this rule shall be construed to preclude the board or any other agency of the state from instituting such other action, criminal or civil, as may be permitted by law against the permit holder for any violation.

(B) Abandonment by non-use. Non-use of a permit for a period of three years following the date of issuance shall constitute an abandonment of the development or subdivision and the associated land use permit. For the permit to be "used", construction must have commenced and substantial progress toward completion must have occurred within the three year period, unless construction is delayed by litigation or proceedings to secure other permits or to secure title through foreclosure. In the initial proceeding or in subsequent proceedings, the district commission or the board may provide for a period longer than three years in which a permit must be used. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6091(b).**

(1) Initiation of proceeding. A petition to declare a permit void for non-use may be filed by any person who was a party to the application proceedings, by a local or regional planning commission, or by any municipality or state agency having an interest potentially affected by the development or subdivision. The board or a district commission having jurisdiction over a permit may also, on its own motion, initiate a review of its use.

(2) Procedure. Determinations of use or abandonment will be made by the board or the district commission retaining jurisdiction over the permit. The proceeding will be treated as a contested case. Petitions will be heard and disposed of promptly. The board or district commission shall provide at least 20 days' notice of the proceeding to the permit holder, to

all persons who were parties to the permit proceedings, and to the governmental statutory parties listed in Rule 14(A). If the permit holder does not request the right to be heard, the board or district commission may declare the permit void without a hearing.

Rule 40. Appeals

(A) Any party aggrieved by an adverse determination by a district commission may appeal to the board and will be given a de novo hearing on findings, conclusions and permit conditions issued by the district commission.

An appeal shall be filed with the board within 30 days after the date of the decision of the commission. The appeal shall consist of the original and 10 copies of the appeal and of the decision of the commission, and a statement of the reasons why the appellant believes the commission was in error, the issues to be addressed in the appeal, a summary of the evidence that will be presented, and a preliminary list of witnesses who will testify on behalf of the appellant. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for such action as the Board deems appropriate, which may include dismissal of the appeal.

A filing fee in the amount established in Rule 11 of these rules payable to the State of Vermont shall accompany the appeal.

(Amended, effective May 4, 1990 and January 2, 1996.)

See 10 V.S.A. § 6089(a).

(B) The appellant shall send a copy of the notice of appeal by U.S. mail to all parties of right and all parties of record to the commission proceedings and shall file a certification of service with the board at the time it files its appeal. (Amended, effective May 4, 1990.)

(C) The board shall provide notice to parties as required under 10 V.S.A. § 6089(a) by publication of notice of appeal not less than 10 days before the hearing date.

(D) If any party of right or other parties of record to an application wishes to appeal findings of the district commission relating to criteria or issues other than those raised by the appellant, the party must file a cross-appeal with the board within 14 days of the date the notice of appeal was mailed to the party by the appellant, or before the expiration of the 30 days allowed for filing appeals, whichever is later. Such appeal shall comply with the requirements of paragraphs (A) and (B) of this rule, excepting, however, the filing of copies of the decision of the commission with the board is not required. (Added, effective May 4, 1990.)

(E) The scope of the appeal hearing shall be limited to the errors and issues assigned by the appellant and any cross-appellant unless substantial inequity or injustice would result from such limitation.

(F) Any party to the application may enter its appearance in the appeal before the board within 14 days after notice was mailed to the party by the appellant or expiration of the 30 days

allowed for filing appeals, whichever is latest. (Amended, effective May 4, 1990 and January 2, 1996.)

Rule 41. Administrative Hearing Officer or Panel - Environmental Board

(A) Unless otherwise directed by the board, the chair may appoint a hearing officer or a subcommittee of the board to hear any appeal or petition before the board, or any portion thereof. A subcommittee of the board shall be known as a "hearing panel." (Amended, effective January 2, 1996.)

(B) Parties shall be given due notice of the chair's intention to appoint a hearing officer or panel and shall have reasonable opportunity to object to the appointment within a stated time. If a party raises an objection, the board shall review the chair's decision to determine whether, by reason of complexity, necessity to judge the credibility of witnesses, or other appropriate reasons, the matter should be heard by the full board. The decision of the board shall be final. The hearing officer or panel shall be a member or members of the board including alternates. If it appears that any issue should be heard by the full board by reason of complexity, necessity to judge the credibility of witnesses, or other appropriate reasons, the hearing officer or panel may decline to hear that issue, in which event the matter shall be referred for hearing to the board.

(C) Rules governing proceedings before the hearing officer or panel shall be the same as those which pertain to hearings before

the board. The hearing officer or panel shall hold such prehearing conferences and issue such notices and orders as may be necessary for the orderly and expeditious conduct of hearings.

(D) The hearing officer or panel shall prepare and transmit to the board and all parties of record recommended findings of fact and conclusions of law. A record of proceedings shall be prepared and made available to all board members for their review. The board's final findings and conclusions shall be based on the record. Prior to final decision by the board, parties shall be given an opportunity to request oral argument and to present a memorandum objecting to the recommendations of the panel or officer. Any such request for oral argument or memorandum must be filed within 15 days from the date of service for the proposed findings and conclusions, unless a longer period is provided by the board. (Amended, effective January 2, 1996.) **See 10 V.S.A. § 6027(g).**

(E) Upon its review of the record and the hearing officer's or panel's recommendations, the board shall determine whether the record is complete and whether the hearing should be adjourned. In the case of an appeal, unless otherwise agreed to by the parties, the board shall make a final decision within 20 days after the completion of deliberations by the board. (Amended, effective January 2, 1996.)

Rule 42. Stay of Decisions

No decision of the board or a district commission is automatically stayed by the filing of an appeal. Any party aggrieved by a final order of the board or a district commission may request a stay by written motion filed with the board identifying the order or portion thereof for which a stay is sought and stating in detail the grounds for the request.

In deciding whether to grant or deny a stay, the board may consider the hardship to parties, the impact, if any, on the values sought to be protected by Act 250, and any effect upon public health, safety or general welfare. The board may issue a stay containing such terms and conditions, including the filing of a bond or other security, as it deems just. The chair of the board may issue a preliminary stay which shall be effective for a period not to exceed 30 days. Any preliminary stay shall be reviewed by the board within that 30 day period. A party may file a motion to dissolve a preliminary stay within 10 days of issuance. (Added, effective August 21, 1986 and amended, effective January 2, 1996.)

Rule 43. Appeals to the Board Before Final Decision of District Commissions: Questions of Law and Party Status

(A) ɔtion for interlocutory appeal regarding all orders or rulin xcept those concerning party status. Upon motion of any party, .e board may permit an appeal to be taken from any interlocutory (preliminary) order or ruling of a district

commission if the order or ruling involves a controlling question of law as to which there is substantial ground for difference of opinion and an immediate appeal may materially advance the application process. The appeal shall be limited to questions of law. (Amended, effective May 4, 1990 and January 2, 1996.)

(B) Motion for interlocutory appeal regarding party status. Upon motion of any party, or person denied party status, the board in its sole discretion may review an appeal from any interlocutory (preliminary) order or ruling of a district commission if the order or ruling grants or denies party status and the board determines that such review may materially advance the application process. (Added, effective January 2, 1996.)

(C) Filing of appeal and response. Any motion for interlocutory appeal under this rule must be made to the board within 10 days after entry of the order or ruling appealed from and shall include a copy of that order or ruling. The motion must be accompanied by the filing fee specified in Rule 11(C) of these rules. An original and ten copies of the motion, supporting memorandum, and order or ruling shall be filed with the board and a copy of the motion shall be sent by U.S. mail to all parties and to the district commission. Within five days of such service, an adverse party may file an original and ten copies of a memorandum in reply to the motion with the board. A copy of a memorandum in reply shall be sent to all parties and to the district commission. (Added, effective January 2, 1996.)

(D) Proceedings on appeal. Any interlocutory appeal shall be

determined upon the motion and any response without hearing unless the board otherwise orders. If a motion for interlocutory appeal is granted under section (A) of this rule, board proceedings shall be confined to those issues identified in the order permitting the appeal. If a motion for interlocutory appeal is granted under section (B) of this rule, board proceedings shall be confined to the specific grant(s) or denial(s) of party status identified in the motion. For any interlocutory appeal, the board may convene such hearings to hear oral argument as it deems necessary to dispose of the appeal. Such proceedings shall be conducted as provided by these rules for appeals to the board. (Amended, effective January 2, 1996.)

(E) Stay of district commission proceedings. On receipt of a motion filed under this rule the chair of the board may issue an order staying district commission proceedings until disposition of the motion by the board. (Added, effective January 2, 1996.)

ARTICLE V. SUBSTANTIVE REVIEW - SPECIAL PROCEDURES

Rule 51. Minor Application Procedures

(A) Qualified projects. Any development or subdivision subject to the permit requirements of 10 V.S.A. § 6081 and these Rules may be reviewed in accordance with this Rule as a "Minor Application" if the district commission finds that there is demonstrable likelihood that the project will not present significant adverse impact under any of the 10 criteria

of 10 V.S.A. § 6086(a). In making this finding, the district commission may consider:

(1) the extent to which potential parties and the district commission have identified issues cognizable under the 10 Criteria;

(2) whether or not other State permits identified in Rule 19 are required and, if so, whether those permits have been obtained or will be obtained in a reasonable period of time;

(3) the extent to which the project has been reviewed by a municipality pursuant to a by-law authorized by 24 V.S.A. Chapter 117;

(4) the extent to which the district commission is able to draft proposed permit conditions addressing potential areas of concern; and

(5) the thoroughness with which the application has addressed each of the 10 criteria.

(B) Preliminary procedures. The district commission shall review each application to determine whether the project qualifies for treatment under this Rule. If the project is found to qualify under section (A), the district commission shall:

(1) prepare a proposed permit including appropriate conditions; and

(2) provide written notice and a copy of the proposed permit to those entitled to written notice under 10 V.S.A. § 6084; and

(Added, effective January 2, 1996.)

(3) provide published notice as required by 10 V.S.A. § 6084; the notice shall state that:

(a) the district commission intends to issue a permit without convening a public hearing unless a request for hearing is received by a date specified in the notice which is not less than seven days from the date of publication; and

(b) the preparation of findings of fact and conclusions of law by the district commission may be waived; and

(c) statutory parties, adjoiners, potential parties under Rule 14(B) and the district commission, on its own motion, may request a hearing;

(d) any hearing request shall state the criteria or subcriteria at issue, why a hearing is required and what evidence will be presented at the hearing; and

(e) any hearing request by a non-statutory party must include a petition for party status under the rules of the board. (Subsections (c), (d), and (e) added, effective January 2, 1996.)

(C) No hearing requested. If no hearing is requested by a statutory party, adjoining property owner or potential party under Rule 14(B), or by the district commission on its own motion, the proposed permit may be issued with any necessary modifications. The district commission may delegate the authority to sign minor permits which have been approved by the district commission to the district coordinator or the assistant district coordinator; (Amended, effective May 4, 1990 and January 2, 1996.)

(D) Hearing requested. Upon receipt of a request for a hearing, the district commission shall determine whether or not substantive issues have been raised under the criteria and shall convene a hearing if it determines that substantive issues have been raised. If the district commission determines that substantive issues have not been raised, the district commission may proceed to issue a decision without convening a hearing. (Added, effective January 2, 1996.)

If a hearing is convened, it shall be limited to those criteria or sub-criteria identified by a statutory party, successful petitioner for party status, or by the district commission unless the district commission, at its discretion, determines before or during the hearing, that additional criteria or subcriteria should be addressed. (Amended, effective January 2, 1996.)

(E) Party status petitions. The district commission shall rule on all party status petitions prior to or at the outset of the hearing. (Added, effective January 2, 1996.)

(F) The district commission need only prepare findings of fact and conclusions of law on those criteria or sub-criteria at issue during the hearing. However, findings of fact and conclusions of law may be issued with a decision to address issues identified and resolved during the minor application process, even if no hearing is held. (Amended, effective January 2, 1996.)

(G) Material representations. Upon issuance of a land use permit under minor application procedures, the permit application

and material representations relied on during the review and issuance of a district commission decision shall provide the basis for determining future substantial and material changes to the approved project and for initiating enforcement actions. (Added effective January 2, 1996.)

Effective May 5, 1992

Rule 60. Qualified Purchasers of Lots in a Subdivision Created Without the Benefit of a Land Use Permit as Required by 10 V.S.A. Chapter 151

(A) Purpose. The purpose of this rule is to create a procedure for providing relief to the qualified purchaser of a lot or lots within a subdivision created without a Land Use Permit required by 10 V.S.A. Chapter 151. This rule provides for a modified application and review procedure by which a qualified purchaser, or a group of qualified purchasers, of one or more lots in a subdivision created without the required Act 250 review may apply for and shall obtain a Land Use Permit. A lot or lots eligible for review under this procedure must have been sold and conveyed to the qualified purchaser or purchasers prior to January 1, 1991 without the required Land Use Permit.

(B) Requirements. The requirements under 10 V.S.A. Chapter 151 may be modified to the minimum extent necessary to issue permits to qualified purchasers seeking relief. A complete application addressing all ten criteria of 10 V.S.A. § 6086(a) shall be filed by the qualified purchaser or purchasers seeking relief. Affidavits may be used to establish compliance for

existing septic systems, water supplies, and other improvements, as determined by the district commission or board. As in other Act 250 proceedings, district commissions and the board may place certain conditions and restrictions in the Land Use Permits to ensure that the values sought to be protected under Act 250 will not be adversely affected. Permit decisions will be based upon consideration of the requirements of the criteria of 10 V.S.A. § 6086(a)(1)-(10), as well as existing improvements, facts, and circumstances of each case.

In order to provide for an efficient review process and to reduce the expense for applicants, the board and the district commissions may require the consolidation of individual applications from any given subdivision. At least two weeks prior to the processing of an application under this rule, the district coordinator shall send notice to all potential applicants in the subdivision with a response period of not less than two weeks. The notice shall include the names and addresses of all lot owners within the subdivision. The lot owner(s) initiating the request shall provide a list of all other lot owners in the subdivision. Lot owners who are not qualified purchasers may join the application but they will not receive the benefit of modified standards under the criteria and will not be entitled by right to a permit under 10 V.S.A. §6025(c).
(Amended, effective January 2, 1996.)

(C) Jurisdictional Opinion. Prior to submission of an application, a qualified purchaser must obtain a jurisdictional

opinion from the appropriate district coordinator in order to determine if the subdivided lot in question is subject to Act 250 jurisdiction. The potential applicant must provide the district coordinator with all relevant information including signed affidavits on forms prepared by the board. If the opinion concludes that Act 250 jurisdiction does exist and one or more qualified purchasers have been identified, pre-application assistance will then be provided by the district coordinator.

(D) Eligibility Requirements For Applicants. The purchaser must demonstrate eligibility for relief under 10 V.S.A. § 6025(c). A purchaser eligible for relief under this rule must have purchased the lot or lots and the deed or deeds must have been conveyed prior to January 1, 1991; must not have been involved in any way with the creation of the lot or lots; must not be a person who owned or controlled the land when it was divided or partitioned; and did not know or could not reasonably have known at the time of purchase that the transfer was subject to a permit requirement that had not been met. In making the determination whether the purchaser had knowledge of the illegality of the subdivision, the district coordinator will take into consideration any advisory opinions, declaratory rulings, or judicial determinations which conclude that the purchaser sold or offered for sale any interest in, or commenced construction on, any subdivision in the state without a required Land Use Permit. The board or the district commissions may decide the jurisdictional and purchaser eligibility questions if properly